

## UNITED STATES DISTRICT COURT

Northern

District of

New York

UNITED STATES OF AMERICA  
v.

Certified Environmental Services, Inc

**JUDGMENT IN A CRIMINAL CASE**  
(For Organizational Defendants)CASE NUMBER: DNYN509CR000319-001  
Gabriel M. Nugent, One Park Place, 300 South State  
Street, Syracuse, New York 13202-2078  
(315) 425-2836  
Defendant Organization's Attorney**THE DEFENDANT ORGANIZATION:**

- pleaded guilty to count(s) \_\_\_\_\_
- pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court.
- was found guilty on count(s) 1 through 15 of the First Superseding Indictment on October 12, 2010.  
after a plea of not guilty.

The organizational defendant is adjudicated guilty of these offenses:

<b>Title &amp; Section</b>	<b>Nature of Offense</b>	<b>Offense Ended</b>	<b>Count</b>
18 U.S.C. § 371	Conspiracy to Defraud the United States, Violate the Clean Air Act and Toxic Substances Control Act, and to Commit Mail Fraud	2007	1

The defendant organization is sentenced as provided in pages 2 through 6 of this judgment.

- The defendant organization has been found not guilty on count(s) \_\_\_\_\_
- Count(s) \_\_\_\_\_  is     are dismissed on the motion of the United States.

It is ordered that the defendant organization must notify the United States attorney for this district within 30 days of any change of name, principal business address, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant organization must notify the court and United States attorney of material changes in economic circumstances.

Defendant Organization's

Federal Employer I.D. No.: 16-1387218

October 21, 2011

Date of Imposition of Judgment

Defendant Organization's Principal Business Address:

1401 Erie Boulevard East

Syracuse, New York 13210



United States District Judge

Defendant Organization's Mailing Address:

1401 Erie Boulevard East

Syracuse, New York 13210

November 3, 2011

Date

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### ADDITIONAL COUNTS OF CONVICTION

<u>Title &amp; Section</u>	<u>Nature of Offense</u>	<u>Offense Ended</u>	<u>Count</u>
42 U.S.C. § 7413(c) & 18 U.S.C. § 2	Aiding and Abetting Violations of the Clean Air Act	2/10/05	2
42 U.S.C. § 7413(c) & 18 U.S.C. § 2	Aiding and Abetting Violations of the Clean Air Act	8/18/04	3
42 U.S.C. § 7413(c) & 18 U.S.C. § 2	Aiding and Abetting Violations of the Clean Air Act	7/27/05	4
42 U.S.C. § 7413(c) & 18 U.S.C. § 2	Aiding and Abetting Violations of the Clean Air Act	8/4/06	5
42 U.S.C. § 7413(c) & 18 U.S.C. § 2	Aiding and Abetting Violations of the Clean Air Act	6/29/06	6
42 U.S.C. § 7413(c) & 18 U.S.C. § 2	Aiding and Abetting Violations of the Clean Air Act	8/23/07	7
18 U.S.C. § 1341	Mail Fraud	2/05	8
18 U.S.C. § 1341	Mail Fraud	3/6/06	9
18 U.S.C. § 1341	Mail Fraud	2/10/05	10
18 U.S.C. § 1341	Mail Fraud	8/31/06	11
18 U.S.C. § 1341	Mail Fraud	9/26/07	12
18 U.S.C. § 1341	Mail Fraud	7/19/06	13
18 U.S.C. § 1001	False Statements	8/22/07	14
18 U.S.C. § 1001	False Statements	8/23/07	15

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## PROBATION

The defendant organization is hereby sentenced to probation for a term of :

**5 years.** This consists of terms of five years on each of Counts 1 through 15, to be served concurrently.

The defendant organization shall not commit another federal, state or local crime.

If this judgment imposes a fine or a restitution obligation, it is a condition of probation that the defendant organization pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant organization must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page (if indicated below).

## STANDARD CONDITIONS OF SUPERVISION

- 1) within thirty days from the date of this judgment, the defendant organization shall designate an official of the organization to act as the organization's representative and to be the primary contact with the probation officer;
- 2) the defendant organization shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 3) the defendant organization shall notify the probation officer ten days prior to any change in principal business or mailing address;
- 4) the defendant organization shall permit a probation officer to visit the organization at any of its operating business sites;
- 5) the defendant organization shall notify the probation officer within seventy-two hours of any criminal prosecution, major civil litigation, or administrative proceeding against the organization;
- 6) the defendant organization shall not dissolve, change its name, or change the name under which it does business unless this judgment and all criminal monetary penalties imposed by this court are either fully satisfied or are equally enforceable against the defendant's successors or assignees; and
- 7) the defendant organization shall not waste, nor without permission of the probation officer, sell, assign, or transfer its assets.

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### SPECIAL CONDITIONS OF SUPERVISION

1. The defendant corporation shall make periodic submissions to the probation officer, at quarterly intervals, or as requested by the probation officer, reporting on the corporation's financial condition and results of business operations, and accounting for the disposition of all funds received.
2. The defendant corporation will notify the probation officer upon the sale or transfer of any asset of the defendant corporation.
3. If the defendant corporation has at any time the ability to make full or substantial payment toward restitution, the defendant corporation shall do so immediately.
4. The defendant corporation shall be required to notify the probation officer immediately upon learning of (A) any material adverse change in its business or financial condition or prospects, or (B) the commencement of any bankruptcy proceeding, major civil litigation, criminal prosecution, or administrative proceeding against the organization, or any investigation or formal inquiry by governmental authorities regarding the organization.
5. The Court finds, given the relationship between the defendant corporation's air monitoring and/or project monitoring business and the illegal asbestos abatement projects in the instant offense, that the defendant corporation's involvement in such a capacity in the future presents a risk the defendant corporation may engage in unlawful conduct similar to that for which the defendant has been convicted. Therefore, the defendant corporation is prohibited from engaging in air monitoring and/or project monitoring in relation with any asbestos abatement project while on probation.

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### **CRIMINAL MONETARY PENALTIES**

The defendant organization must pay the following total criminal monetary penalties under the schedule of payments on Sheet 4.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 6,000	\$ 20,000	\$ 117,101.96

- The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- The defendant organization shall make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant organization makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
1		\$42,000	
2		\$7,500	
3		\$2,250	
4		\$12,000	
5		\$3,000	
6		\$1,500	
7		\$6,000	
8		\$750	
9		\$7,530.45	
10		\$3,456.60	
11		\$1,357.95	
12		\$4,919.56	
13		\$20,186.88	
14		\$4,650.52	

<b>TOTALS</b>	\$ _____	\$ _____	117,101.96
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- Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_
- The defendant organization shall pay interest on restitution or a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 4 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant organization does not have the ability to pay interest, and it is ordered that:
  - the interest requirement is waived for the  fine  restitution.
  - the interest requirement for the  fine  restitution is modified as follows:

\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

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## SCHEDULE OF PAYMENTS

Having assessed the organization's ability to pay, payment of the total criminal monetary penalties are due as follows:

**A**  Lump sum payment of \$ 123,101.96 due immediately, balance due

not later than \_\_\_\_\_, or  
 in accordance with  C or  D below; or

**B**  Payment to begin immediately (may be combined with  C or  D below); or

**C**  Payment in \_\_\_\_\_ (e.g., equal, weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or

**D**  Special instructions regarding the payment of criminal monetary penalties:

**The Special Assessment and restitution is due immediately. The fine is to be paid in full no later than January 1, 2012.**

All criminal monetary penalties are made to the clerk of the court.

The defendant organization shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

\$23,420 of the total restitution is to be paid jointly and severally with Nicole Copeland; \$5,855 of the total restitution is to be paid jointly and severally with Sandy Allen; \$5,855 of the total restitution is to be paid jointly and severally with Elisa Dunn; and \$3,703.50 of the total restitution is to be paid jointly and severally with Frank Onoff, all of whom are codefendants with the defendant corporation. The Court gives notice that this case involves other individuals who may be held jointly and severally liable for payment of all or part of the restitution ordered herein and may order such payment in the future.

- The defendant organization shall pay the cost of prosecution.
- The defendant organization shall pay the following court cost(s):
- The defendant organization shall forfeit the defendant organization's interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.

AO 245E

(Rev. 12/03) Judgment in a Criminal Case for Organizational Defendants  
Attachment — Statement of ReasonsJudgment — Page 1 of 2DEFENDANT ORGANIZATION: Certified Environmental Services, Inc  
CASE NUMBER: DNYN509CR000319-001**STATEMENT OF REASONS** The court adopts the presentence report and guideline applications **WITHOUT CHANGE**.**OR** The court adopts the presentence report guideline applications **BUT WITH THESE CHANGES**:**Guideline Range Determined by the Court:** The defendant organization is a criminal purpose organization pursuant to U.S.S.G. §8C1.1.**OR** The calculation of the guideline fine range is unnecessary because the defendant organization cannot pay restitution pursuant U.S.S.G. §8C2.2(a).**OR**Total Offense 21Base \$910,000Total Culpability 6Fine Range: \$1,092,000 to \$2,184,000 Disgorgement \_\_\_\_\_ is added to fine pursuant to U.S.S.G. §8C2.9. Fine offset \_\_\_\_\_ is subtracted from fine pursuant to U.S.S.G. §8C3.4. Fine waived or below the guideline range because of inability to pay pursuant to U.S.S.G. §8C3.3.**RESTITUTION DETERMINATIONS**Total Amount of Restitution: \$ 117,101.96 For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because the number of identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A). For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not ordered because determining complex issues of fact and relating them to the cause or amount of the victim's losses would complicate or prolong the sentencing process to a degree that the need to provide restitution to any victim would be outweighed by the burden on the sentencing process under 18 U.S.C. § 3663A(c)(3)(B). For offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the sentencing guidelines, restitution is not ordered because the complication and prolongation of the sentencing process resulting from the fashioning of a restitution order outweighs the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii). Restitution is not ordered for other reasons: Partial restitution is ordered, pursuant to 18 U.S.C. § 3553(c) for the following reason(s):

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## STATEMENT OF REASONS

- The sentence is within the guideline range and the court finds no reason to depart from the sentence called for by the application of the guidelines.

## OR

- The sentence departs from the guideline range:
- upon motion of the government, as a result of a defendant's substantial assistance, or
  - for the following specific reason(s):